

RIVERS MANAGEMENT ADVISORY COMMITTEE

Meeting Minutes

February 11, 2004

Held at the Society for Protection of New Hampshire Forests' Conservation Center

Members Present: Ken Kimball, Chair, Recreational Interests
Michele Tremblay, Vice Chair, Conservation Interests
Bob Beaurivage, Public Water Suppliers
Ben Haubrich, Dept of Resources and Economic Development
Deborah Hinman, Conservation Commissions
Allan Palmer, Business and Industry Association
Wesley Stinson, Historical & Archaeological Interests
Ted Sutton, Municipal Government
Bill Ingham, Fish & Game Department

Members Absent: Gail McWilliam, Department of Agriculture
Jamie Robertson, Agricultural Interests
Ben Frost, Office of State Energy and Planning
George Lagassa, Granite State Hydropower
James Jones, NH Fish & Game Commission

Others Present: Carl Paulsen, NH Rivers Council
Ken Stern, SPNHF

DES Staff Present: Steve Couture, Rivers Coordinator, Watershed Mgmt Bureau
Bethann McCarthy, NHDES Dam Bureau
Marie LosKamp, Executive Secretary, Watershed Mgmt Bureau

Chair, Ken Kimball, opened the meeting at 9: 45 am.

I. Introductions

Introductions were made.

II. Acceptance of December 18, 2003 Minutes

A motion was made by Ms. Tremblay to accept the minutes as corrected. Allan Palmer seconded.

Corrections:

Ken suggested that the following sentence be used to replace what was said as a disclaimer by NRCS to clarify: **"NRCS stated that it based its presentation on EPA data that is currently under review."**

Alan – On page 12 – at the bottom VII (b) nomination. ***It is (b), it should be (a).***

Michele - On page 2 under III second bullet under (a). Deb Hinman wanted, does the italic mean something? ***Un-italicize this statement.***

- ***Ken all in favor of accepting meeting minutes as amended say aye, all opposed, minutes unanimously accepted with modifications as discussed.***

III. Joint RMAC/LMAC meeting – Steve Couture, NHDES

- a. Tentative date May 21, 2004
- b. Tentative Presentation(s): Watershed Approach (Steve Couture); Water Quality Standards Advisory Committee (Paul Currier); Wetlands Bureau – Rule Making (Collis Adams)

Proposed Date and Time for Meeting: May 27th is the preferred date of the RMAC.

Presentation Agenda for Meeting:

Watershed Approach (Steve Couture); Water Quality Standards Advisory Committee (Paul Currier); and Wetlands Bureau – Rule Making (Collis Adams).

- **The RMAC had no suggestions at this time.**

IV. Env-C 700 Nomination Rules – Steve Couture, NHDES

a. Set to expire in November 2004. RMAC input requested.

Steve gave introduction – These rules were last adopted in 1996 and at that time you had a longer window before the rules expired. The next set when readopted will only have a six year window, but they are set to expire in November of this year. It will take that long to get them officially adopted, so the RMAC's feedback is needed as soon as possible. Looking for your feedback on any changes that you think will be appropriate for the nomination rules.

- **Michele – I feel that yes it is a lot for a volunteer organization to go through, if it wasn't difficult to go through, it wouldn't mean as much. I want to make sure that somewhere there is a balance there. I would like to hear from LACs first before I make a comment as an RMAC member.**
- **Ken - Before we get into the comments on specifics, I want to make sure that we all understand procedurally. When do you need recommendations from this committee, I just want to make sure we provide our input in the proper time frame.**

Steve – There is going to be an initial proposal, which you can comment on as well, which will be submitted by DES and then sent out for public comment. Initial proposal will probably not go out until April.

Ken – What I would like to do is build a calendar, so we know what timelines we are working on.

Michele - you can work back from the public hearings, you know at least statutorily where you lie there. If you are expiring in November and there is the first issuance of the draft and you have to have a public comment period and so forth, you can at least work back to that point. Because my next point was going to be that it might save a lot of time to get LAC/RMAC input to incorporate into your initial draft rather than have that come in to the public comment period.

Steve - That is why I am here because I want to try to get this proposal out by April/May timeframe.

- **Ken – Based on this and the fact that we are going to meet in May, I am going to suggest that we get our recommendations, as much as possible, to Steve today and then at the May meeting we can discuss the draft that is coming out from DES.**

After much discussion these were the main issues:

1. There should be a requirement for documentation of notification to the public officials from municipalities through which the proposed river segments flows and all responses.

2. The public hearing is well documented and a general court for towns to say they don't like it.
3. It is good to have committee bring forth letters of support. A description of community and public support or letters or minutes from elected and appointed local officials indicating public support should be required.
4. Our recommendation is two separate requirements: one indicating notification of towns and public officials and other documentation of public support.
5. Page 5, concerns Rivers Coordinator forward's his recommendation to the Commissioner, language Rivers' Coordinator in consultation with the RMAC forwards his recommendation, and does it imply that the Coordinator and RMAC concur. No it doesn't. RMAC voted that a specific river wasn't nominated, Isinglass, and the Commissioner ignored our recommendation and we are going to approve the nomination.
6. Steve check on the definition 701.08 - NH Natural Heritage Inventory, now it is Bureau.

➤ **Ken - Any other comments on the rules? We can still submit comments. Draft of proposal for next meeting. What we have proposed is mostly housekeeping.**

V. SB 87 Study Commission – Jamie Robertson, RMAC
a. 2-11-04 SB87 Study Commission meeting
b. NHDES and LAC proposals

Ken - At the last meeting we put together the RMAC's recommended proposal to the SB87 committee for Jamie to bring forth. Jamie is not here today but both Michele and Deb Hinman are on the SB87 committee representing interests other than the RMAC but can give us an update.

Deb Hinman – We did go through a very laborious, necessary process to put all proposals in a chart that will hopefully allow us to compare them adequately to each other. Update on study commission. Yesterday there appeared to be some confusion about existing rules and statutes, stockpiling sludge, definitions of what top dressing means, incorporation means, and then land spreading. I was surprised to discover that there is some existing distance changes in the current rules, the 250 foot setback seems to allow stock piling in the corridor which I couldn't understand.

Steve – **For clarification** the 1998 document with DES asked for the interpretation of RSA 483. They were only asking the opinion of the Attorney General's Office as far as land application. There never was a reference to stockpiling either in DES's opinion or request to the AG or the AG's response. Right now it is up to interpretation, because there hasn't been any official interpretation.

Deb – Stockpiling means that the truck comes in and dumps the pile of sludge and goes away and who knows what happens to the stockpiled material for months and months; or it could get used within 48 hours. So then there is topdressing, which means you spread sludge or any material on the pastures or the land that is not going to get tilled up right away. Then there is spreading on tilled land and it needs to be incorporated, turned over within 48 hours in the existing rules, I believe. So those are the phrases that have been discussed, land spreading, top dressing, stockpiling. All of the proposals have had to make clear on what they will or will not recommend in terms of land spreading with incorporation, top dressing or stockpiling. It is my assumption that the existing 250 foot setback in the rivers program meant none of the above can happen in the 250 foot riparian area and was rather shocked to discover that stock piling is in fact allowed to some extent because it was

not addressed in the statute. Stockpiling is not involved in the 250 foot set back, only covered by the regulations.

Ken – The committee met and now has more than 9 proposals in front of it. If I recall correctly, it was Rep. Allen who is the Chair of that committee was going to use some sort of process, which is this chart, which is a matrix.

Michele - The matrix outlines what each of different proposals does in the way of waivers, grandfathering, setbacks, stockpiling, etc., and once all of that is established then what is going to happen in subsequent work meetings is to rank those. Additionally, he had talked about the output of the final report of the study commission being the ranking, but since then the committee has felt very strongly that we should use the remaining work sessions to come up with something a little bit more cohesive and clear as far as a recommendation. That may not happen, but that is something we should toward. Carl Paulsen is working on a number of research parameters involving heavy duty research. The meetings will run thru to the beginning of June on Mondays. They are held at the LOB in room 303.

Steve – One other important aspect of yesterday's meeting was that we have a sub-commission of UNH Coop Extension, NRCS, and UNH Civil Engineering Department, and they are going to look at the site specific issues and come up, hopefully, with one very specific recommendation of what the site specific process should be.

Michele - The evaluation copies have been sent out to all committee members to make sure that what we said was captured, so when the final goes out, we can send that to the RMAC and everyone can get a copy of it. In conjunction with what Steve just mentioned for lack of a better word, we are going to pilot that tool and see how it works on the ground, take a couple of sites and see if we were to apply that criteria and use that as a tool how it would work on different sites and see what the end result would be. So, it is not a scientific testing, it is application.

VI. NHDES Dam Bureau Rules – Michele Tremblay, RMAC & Bethann McCarthy, DES Dam Bureau

Michele - Five meetings have been scheduled, three have been held to date, the next one is being held this Friday at DES and then the final meeting is on 20th of this month in room 12. So far the meetings included an initial discussion, an introduction to the process, and then at subsequent meetings looked at existing dam rules and looking at classification, definitions. A meeting from there was dam construction and reconstruction rules, and Friday's meeting will be emergency action plans for class b and c dams as well as dam removals, the last meet will be extra time for issues of concern. George Lagassa has been attending those meeting. Of course, the meetings are open to the public.

- **Ken** – If you have input for the RMAC to put forth, you can circulate that via e-mail so that RMAC members can get their input back to you. It would be the most efficient way. Let me try this as a recommendation, once Michele gets a draft, it can be circulated out to all committee members and just give a drop dead deadline for comments by committee members. When committee members submit their comments, they can submit them so that it also goes to all other committee members.

Michele – Ken I think that is a good suggestion and Bethann if I may ask, what would be the drop dead date for comments.

Bethann - I think sometime in April, we will talk on Friday.

Ken – Michele since you are our representative, I will leave it to you to get that date. Are committees members comfortable with having this sent out by e-mails?

- **Michele – One question I have for the committee is do you want our comments to be an RMAC letter and are you comfort with Ken and I drafting that and putting every ones comments together and pass by Ken before we send it out to the committee? I think that is the way we have done it in the past between meetings.**

The RMAC agree with Michele's process recommendation.

VII. Rivers Coordinator Update - Steve Couture, NHDES

- a. Instream Flow Pilot Program**
 - i. TRC and WMPAAC appointments**
 - ii. WMPAAC Designee**
 - iii. WMPAAC nomination**

Steve – In your packet you have the two memos that were sent out. The Commissioner appointed TRC as submitted by RMAC. The TRC had their meeting last Friday and Ken Kimball is also the chair of that group. They will be meeting again on March 22. WMPAAC took three G&C meetings to actually make it through. At the first G&C meeting it was pulled. The membership will be official as of today. We are hoping to have the first meeting with them the last week of February or the first two weeks in March and that will be within the Souhegan watershed. It may be either a daytime or an evening meeting depending on the committee. One thought for the WMPAAC, is since you have a direct connection with the TRC, I wasn't sure but it might be a good idea for RMAC to have someone to follow the WMPAAC process also. Just a thought, if you want to have a designee to keep up with that particular committee. I will be able to provide feedback and updates.

Ken – Critical thing is to get the WMPAAC up and going. There is a need to select the consultant doing the actual work, review process and they will do both instream flow and water management plan, we cannot review responses to the request for proposal until that committee is actually put together. Steve we also need to review one designee?

Steve – Yes, that designee is Jay Crystal.

Ken – Just for those as a refresher at the December meeting we went through and dealt with the recommendations for the Technical Review Committee and it was actually a charge of this committee and then the WMPAAC committee as you know has to get final approval through the Governor and Council. It turns out that one of the folks was on again off again.

Steve – Basically what happened was we made a mistake. There are 20 members for the WMPAAC and somehow internally with all the processes and trying to get things together to get the nominations through, we excluded this one representative and we caught it and now we have to have this person recommended to DES so that we can try to get them to go through the G&C process so they can get appointed. Jay Crystal was nominated originally as an affected water user and a business interest, but we eliminated him because he wasn't an affected water user. Sense he still represents a business the Nashua Regional Planning Commission re-submitted his nomination from.

- **Michele moved that we nominate Jay Crystal to the WMPAAC Committee to represent a business in a town or city in the WMPACC, seconded by Bob Beaurivage. All in favor aye, opposed nay, it is unanimous.**

Ken – Overview of first meeting of TRC and Paul Currier gave an overview for those not familiar with the process, committee assignments, timeframe done, next meeting set up to start the selection of DES consultants. The Lamprey Committees will be 6 to 8 months behind, it is our understanding that the funding is through appropriations that Senator Gregg obtained and it is going to materialize. This committee will be going through selecting members for the Lamprey. Next TRC meeting one of the things on the agenda actually is to have people from EPA outline some of the techniques used to determine what kinds of flows are necessary.

Steve – The LAC chairs, RMAC members will all be part of that notification for the TRC and WMPAAC meetings. The next TRC meeting is on March 22 at DES from 9:30-11:30.

Ken - The general game plan is the TRC will work out what they want to see from the consultants and the responses to the RFPs will come back, the TRC will make recommendations to DES on which one to select, but it is DES's final choice obviously, and there will be a fairly long period because the consultant will need to go back and do this work. TRC did ask that there be periodic milestones where we would see some of the progress. We will get periodic updates from the consultants and will bring their results back for TRC to review again.

Ted – Fortunately we do have a chairman, Ken and myself who have spent the last 15 years dealing with instream flow, people and contractors and whatever. I would rely on Ken to be able to help to direct the committee in such a way with his knowledge as to what methodologies are the test and which one is going to suffice and come out with the best results for everyone's best interest and not just the conservation side.

Ken – I think the general flavor is in understanding that the committee met for the first time, so there was this sort of get to know each other and what the task was as opposed to what I would call a highly substance meeting. I think the general feeling was to let the bidding companies tell us what they can do, and then we go over those and decide which one is best. That whole science is evolving rather dramatically right now.

The other issue that is a problem is that I got called by several companies and other RMAC members also had received some phone calls and it puts us in a bind because obviously they are trying to get as much inside information as they can. DES has solicited qualification packages. The contractors will be short listed via a review subcommittee of 2 TRC members, 2 members from the WMPAAC and DES are to go over list and shortlist. The shortlist will be requested to submit RFPs and then select contractor from that.

b. Staff Layoffs

Steve – Just in case the RMAC was not aware, the RMAC staff has been reduced. Beth Krumrine who was the Assistant Planner for DES who worked for the Lakes Program and the Rivers Program was one of the DES layoffs. There will be changes in program; degree of LAC interaction will be reduced.

Ken – I was listening to the news and they were talking about 10% cuts from all departments. Is that above and beyond this?

Steve – No, we have already volunteered our cuts.

- **Ted – Could I make a motion that the Chairman writes a letter on behalf of the RMAC to Beth Krumrine thanking her for her contribution to the RMAC. Michele seconded the motion. All in favor say aye, opposed nay, passed unanimously.**

Michele – Steve, I had a thought, you and I had preliminary discussions about what might change given there may or may not be interns and with Beth's leaving. It sounds like the newsletter is going to happen which is positive, and while I want DES to feel a little bit of pain for their generosity in volunteering these staffing cuts and budget cuts, **I would like to submit on**

the Rivers Conference that perhaps you might want to have a planning committee that includes some LAC people, obviously Carl will be involved because it has been conducted with the NH Rivers Council but maybe that would be a means by which you could share pain and get on with planning. It is very important and it needs to continue.

Steve – Yes, I am still trying to determine how I am going to do that. One of the thoughts is that we contract out the coordination of the Conference.

Michele – I think that regardless of whether you do that or not, that having some LACs, watershed groups, different volunteer groups that are essentially your clients for part of the planning process. Who best to tell you what they need in the way of professional development?

Deborah Hinman – Can you tell us who the water related cuts were?

Steve – In the Water Division there were 5 layoffs. One was Beth, one was Mike Racine who worked in the biomonitoring program, and he is now at Fish & Game. The layoffs also included Andrea LaMoreaux who was the volunteer lake assessment program coordinator, and a secretary from the Dam Bureau and from the wetlands bureau Pease office. Three of the cuts came from the Watershed Management Bureau.

Michele – Just to follow up to that, what I have heard is that Andrea's position is being replaced from inside the department but someone from the lab who was analyzing lake water in the lab is not being replaced.

Steve – There was someone from the lab who was also laid off, but I am not familiar with what their responsibilities were.

Deborah – As a Cold River LAC member I want to say that Beth was a great person to work with. She was a very big help to us. We will miss her and we will miss that position greatly and I hope eventually the Rivers Program can be viewed as a large enough program that it is and positions like Beth's allow DES to get people out into the community working with groups of volunteers. Mike's position was the same, and they really maximized the science and outreach that happens around the state. Personally, I feel they were very short sighted positions to be cut. It is a shame. I am so glad to hear that Mike Racine is going to be with F&G. I think the Lakes Association would be very concerned about whether or not sticking somebody into existing full time position at DES can actually step in and manage the lake volunteer program the way Andrea did. She was fantastic.

Michele – Andrea was the sole person in the VLAP program, and that is why I would add, at least for the record, voicing that if it had to be proven by the Department that there was no cut in services, I don't know how you can take one full time person, how is the only staff for her program, eliminate that position and prove that there will be no reduction in services. I just don't see how that is possible. If you look at the labor grades and the tenure of all people who got nailed, I think it was done in such a way that the Union Rules of Bumping could not apply to those people. They were either too low on the totem pole or they were too new to their positions that they couldn't institute that. It was a clean way to get rid of people not a way to strategically manage department resources, and budget cuts. It is wrong.

Deborah – I am concerned about you Steve, you are a very capable guy, however we have instream flow now added, and it is a big part of your coming year or two and you have lost a person, who know there may even be new nominations coming forward which will only add to your workload.

Steve – There may be a nomination for the Oyster and Bellamy rivers in two or three years. The Upper Lamprey back at ground zero so that would also be two-three years out.

Ken – Unfortunately, this is part of the much larger problem of the overall state budget deficit.

Michele – Do you all realize that prior to the Benson cuts less than 2% of the state's annual budget goes to natural resource protection and included in that are the non-necessarily directly

related resource protection parts of DRED which are travel and tourism and industry growth or business development. And so that includes Agriculture, Fish & Game, all various parts of DES, DRED, all of that is included in that less than 2%. And now it is a heck of a lot less than less than 2%. Given what the state tries to parley into its quality of life and come to NH, it is really abominable.

- **Ken – There is one other item I would like insert here. Steve asking as chair could you contact George and ask him if he still intends to be on the RMAC? If not at the next RMAC meeting, if his time is running out we can wait, and if not if he isn't going to attend, then replace him.**

VIII. Presentation of Gulf of Maine Council Marine Environment Visionary Award: Isinglass River Protection Project (IRPP)– Michele Tremblay, Council Coordinator, Gulf of Maine Council on the Marine Environment (above)

Michele – Switching hats, as my contracted position of council coordinator, every year the GOMC and the Green Environment (which is a consortium of state, provincial and federal partners) gets together and decides on a visionary award recipients and each year and in each state and province a group and an individually receives the award. This year we have the dubious distinction of being able to give this award to Isinglass River Protection Project, which is affectionately known as IRPP. I will give you the formal version of the presentation, but before I do that I want to say that personally and professionally I have worked with IRPP and I think that they have done a tremendous job on their nomination. I think without prejudice they have done a tremendous job on their nomination. I attended their public hearings and their informational meetings and I think that they did a fantastic job. **Ann Schultz** and **Liz Evans** accepted the award on behalf of IRPP. In choosing you, the council looked at the IRPP leading for 14 years but also bringing citizens together, riparian land owners, and industry and also the water quality assessments, the annual river walk, and all of the community events that you sponsored have done a lot to help the community with knowing better the Isinglass and now has a strong identity.

Ann – I would like to say that I didn't realize until today that it was from the GOMC. It makes a small river feel very big. There were also other people involved with IRPP and a group called The Kids of the River, who for awhile tailed along behind us and then marched right out in front and gave a tremendous testimony at the house and senate hearings and are still working with us. There is a lot of action in our little corner of the Gulf of Maine. Thank you.

IX. Other Business

Ken - Steve can you give us a legislative update.

Steve – I have left that up to you to determine what was important and what was not.

Ken – We agreed that Steve would not have to try to go through and make a judgment call and that the decision was made that the whole list be sent.

Steve - I would prefer it be kept the same. The update is going to stay the same. I would prefer that the RMAC tell me which ones they want me to flag.

Ken - The list is not going to change now, we can take a little time at next meeting and ask ourselves which ones we want to follow.

Michele - We have to do it every year when the LSRs comes out and once they turn into bills we have to do it again. I don't think that other than the SB87 there is anything we have missed. I have a legislative person on my LAC who is going over it this week, and she will be flagging not only upper Merrimack things but generally designated river things, because they affect a

particular river. So, just this once I will pass it along, but there is no guarantee that it is going to encompass all of the RMACs concerns as well but that can be the first step.

Allan – The LMAC has someone come in from the Lakes Association and they track this. They have a full time lobbyist.

Ken - There are no immediate ones that affect RSA 483. Steve if there are ones that have a direct connection to RSA 483, if you are aware.

Steve - SB87

Ken – We have spent a fair amount of time on SB87. There have been a number of other issues like wetlands, etc. which we as a committee took some steps on it but they were not at the same level as SB87 where this committee had an appointed role.

- **Requested article for Meanderings, article needed by March 1st.**
- **A motion was made by Ms. Tremblay to adjourn the meeting, seconded by Bob Beaurivage and unanimously voted to adjourn at approximately 12:45 p.m.**

Adjourned at 12:45 pm.